

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 179

ASSISTANCE TO DISPLACED PERSONS

\$15-179-1	Purpose and applicability
\$15-179-2	Definitions
\$15-179-3	Relocation payments
\$15-179-4	Application
\$15-179-5	Prompt payments
\$15-179-6	Partial acquisition
\$15-179-7	Inspection of books
\$15-179-8	Replacement housing payment
\$15-179-9	Replacement housing payment to a one-year owner-occupant who purchases
\$15-179-10	Replacement housing payment to owner-occupants who rent
\$15-179-11	Replacement housing payment to owner-occupants for less than one year but not less than ninety days who purchase
\$15-179-12	Replacement housing payment to owner-occupants for less than one year but not less than ninety days who rent
\$15-179-13	Replacement housing payment to tenant-occupants for not less than ninety days who rent
\$15-179-14	Replacement housing payment to tenant-occupants for not less than ninety days who purchase
\$15-179-15	Replacement housing payment to tenant of sleeping room who rents
\$15-179-16	Decent, safe, and sanitary housing
\$15-179-17	Right to appeal
\$15-179-18	Documentation
\$15-179-19	Assurance of availability of housing

§15-179-20 Relocation assistance programs

Historical note: Chapter 15-179, Hawaii Administrative Rules, is based substantially upon chapter 6-391, Hawaii Administrative Rules.
[Eff 8/25/90; R **OCT 25 1999**]

§15-179-1 Purpose and applicability. The purpose of this rule is to implement chapter 111, HRS. These rules are not applicable in instances where state agencies use federal funds (total or partial) to implement a project which causes displacement of individuals, families, businesses, farms or non-profit organizations; applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA), as amended, shall apply to relocations when federal funds are involved.
[Eff **OCT 25 1999**] (Auth: HRS §111-9) (Imp: HRS §111-9; 49 CFR Part 24)

§15-179-2 Definitions. The terms "business", "displaced person", "family", "farm operation", "person" and "state agency" shall be defined as set forth in section 111-2, HRS. As used in this chapter:

"Comparable dwelling" means one which when compared with the dwelling being taken is:

- (1) Decent, safe, and sanitary;
- (2) Functionally equivalent and substantially the same with respect to number of rooms, area of living space, type of construction, age, and state of repair;
- (3) In areas not generally less desirable than the dwelling to be acquired in regard to public utilities, and public and commercial facilities;
- (4) Reasonably accessible to the displaced person's place of employment;
- (5) Adequate to accommodate the relocatee;
- (6) In an equal or better neighborhood;
- (7) Available on the market; and
- (8) Open to all persons regardless of race, color, religion, sex or national origin;

"Corporation" means the housing and community development corporation of Hawaii created under chapter

201G, HRS.

"Eligible person" means any displaced person who is, or becomes, lawfully entitled to any payment under these rules.

"Executive director", means the executive director employed by the corporation or the executive director's designated representative.

"Individual" means a person who is not a member of a family;

"Moves in reasonable expectation". A person who moves from real property subsequently acquired for public purposes as a result of the "reasonable expectation of acquisition of such real property" is one who is in occupancy on the date of the first written offer to purchase the property and meets the occupancy requirements. The occupancy requirements must be computed from the date the person moves.

"Moving expenses" includes the cost of dismantling, disconnecting, crating, loading, insuring, temporary storage, transporting, unloading, reinstalling of personal property, including service charge in connection with effecting such reinstallations, exclusive of the cost of any additions, improvements, alterations, or other physical changes in or to any structure in connection therewith, and necessary temporary lodging and transportation of eligible persons.

"Owner" means:

- (1) Owning, legally or equitably, the fee simple estate, a life estate, a ninety-nine year lease, or other proprietary interest in the property;
- (2) The contract purchaser of any of the foregoing estates or interest; or
- (3) Who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law. In the event of acquisition of ownership by such methods, the tenure of the succeeding owner shall include the tenure of the preceding owner.

"State" means the State of Hawaii.

[Eff OCT 25 1999] (Auth: HRS §§111-2, 111-9)
(Imp: HRS §§111-2, 111-9)

\$15-179-3 Relocation payments. (a) Except as provided below, any individual, family, business, or

farm operation displaced by a state agency is entitled to receive a payment for actual reasonable moving expenses supported by a receipted bill or other evidences of expenses incurred. The distance of the move shall not exceed fifty miles measured in a straight line. There is no occupancy time limit for eligibility for moving expense payments. Where it is shown to be in the public interest, the executive director may give prior approval to more than one move of a displaced person. In order to obtain a moving expense payment, a displaced person must file written claim with the displacing state agency on a form approved by the corporation. Except for hardship cases, the moving expense payment shall be made only after the move is accomplished. By written prearrangement among the displacing state agency, the displaced person, and the mover, a displaced person may present an unpaid moving bill to the displacing state agency and the agency may pay the mover directly. A state agency may enter into a contract with independent movers on a schedule basis and furnish a displaced person with a list of movers to choose from to move the persons's property. In such instances, the state agency shall pay the mover.

(b) Optional payments:

(1) In the case of a self-move, the business or farm operation may be paid an amount to be negotiated between the displacing state agency and the displaced business or farm operation not to exceed the lower of two firm bids or estimates obtained by the state agency or prepared by qualified state estimators other than the employee handling the claim. The cost of obtaining firm bids or estimates is considered eligible for reimbursement.

(2) A displaced business or farm operation may elect to accept the optional payments authorized in section 111-3, HRS.

(A) The term "average annual net earnings" means one-half of any net earnings of the business before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable

year in which the business is displaced. "Average annual net earnings" includes any compensation paid by the business to the owner, the owner's spouse, or the owner's dependents during the two-year period. Such earnings and compensation may be established by federal or state income tax returns filed by the business and its owner and the owner's spouse and dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, spouse wife and their dependent children shall be treated as one unit.

- (B) For the owner of a displaced farm operation, the displacing state agency must determine that:
 - (i) The farm operator has discontinued farm operations at the present location; or
 - (ii) The entire farm operation has been relocated to a new location as a result of the acquisition of real property.
- (C) If the displaced business or farm operation affected can show that it was in business for twelve consecutive months during the two taxable years prior to the taxable year in which it was displaced, had income during such period and is otherwise eligible, such displaced business or farm operation is eligible to receive the payment in accordance with subparagraph (A) and section 111-3, HRS, and paragraph 2(A) of this section. Where the business or farm operation was in operation for

twelve consecutive months or more but was not in operation during the entire two preceding years, the payment shall be computed by dividing the net earnings by the number of months the business or farm operation was operated and multiplying by twelve.

(c) For the owner of a business or farm operation to be entitled to payment, the business or farm operation must provide information to support its net earnings.

(d) A displaced individual or family may elect to accept the optional payments authorized in section 111-3(c), HRS. State agencies shall use the guidelines outlined in exhibit "A", Optional Fixed Payments Moving Cost Schedule Applicable to State Funded Displacements, dated August 27, 1999, located at the end of this chapter, when effecting optional fixed payments to individuals and families displaced as a result of state agency action. Additionally, if federal funds should be involved in a state agency project resulting in displacement of individuals and families, the state agencies shall apply the current federal guidelines for effecting optional fixed payments to those individuals and families.

(e) When necessary, a displaced person falling within subsection (a) may store personal property for a reasonable time, not to exceed one year, pending location of replacement housing. The cost of such storage shall be considered as part of the moving costs. Such costs shall be paid only after a showing of necessity for such storage and approval by the displacing state agency. This subsection shall not apply to persons electing other optional payments.

[Eff **OCT 25 1999**] (Auth: HRS §§111-3, 111-9) (Imp: HRS §§111-3, 111-9)

§15-179-4 Application. (a) No application for any relocation payment authorized by section 15-179-3 shall be accepted more than eighteen months after the date of displacement, nor shall any such payment be made prior to the date of displacement except in cases of hardship.

(b) Applications for any relocation payments authorized by section 15-179-3 shall be on forms

provided by the state agency and approved by the corporation, shall be accompanied by such information and documents as may be required by the corporation and shall be made directly to the displacing state agency. [Eff **OCT 25 1999**] (Auth: HRS §111-9) (Imp: HRS §111-9)

§15-179-5 Prompt payments. All relocation payments authorized by section 15-179-3 shall be paid within thirty days after the date of displacement or within thirty days after the date of application if application is made after the date of displacement. [Eff **OCT 25 1999**] (Auth: HRS §111-8) (Imp: HRS §111-8)

§15-179-6 Partial acquisition. Where partial acquisition of real property occurs, the cost of moving personal property from the area acquired to a remainder area shall be considered moving expenses eligible for compensation if removal of the property is necessary and is not otherwise compensated. [Eff **OCT 25 1999**] (Auth: HRS §111-9) (Imp: HRS §111-9)

§15-179-7 Inspection of books. All books and records kept by a business or farm operation regarding actual moving expenses incurred shall be subject to review and audit by a representative of the displacing state agency during reasonable business hours. [Eff **OCT 25 1999**] (Auth: HRS §111-8) (Imp: HRS §111-8)

§15-179-8 Replacement housing payment. (a) In addition to other payments authorized herein, displaced individuals and families are entitled to supplementary payments in accordance with this section.

(b) For the purpose of this section, the term "dwelling" includes a condominium or cooperative apartment.

(c) Applications for supplementary payments shall be on a form approved by the corporation and shall be filed with the state agency no later than eighteen months after the date on which the displaced individual or family was required to vacate the dwelling taken for

the project, or six months after final adjudication of the condemnation case, whichever is later.

(d) The payments described in this section shall be made directly to the lessor for rent or to the seller for application on payment for a decent, safe, and sanitary dwelling. Upon specific request in the application, the state agency may make payments into escrow prior to the displaced person's moving.

(e) Prior to any payment, the state agency shall cause the proposed replacement dwelling to be inspected to ascertain that it meets the standards established herein for decent, safe, and sanitary housing.

(f) An advance replacement housing payment can be computed and paid to a property owner if the determination of the state's acquisition price will be delayed pending the outcome of condemnation proceedings. A provisional replacement housing payment shall be calculated by deeming the State's maximum offer for the property as the acquisition price. Payment of such amount may be made upon the owner-occupant's agreement that:

- (1) Upon final determination of the condemnation proceeding the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the average price required to acquire a comparable decent, safe, and sanitary dwelling; and
- (2) If the amount awarded in the condemnation proceeding as the fair market value of the property acquired plus the amount of the provisional replacement housing payment exceeds the cost of an average comparable dwelling, the property owner will refund to the state agency from the judgment, an amount equal to the amount of the excess. However, in no event, shall the owner be required to refund more than the amount of the replacement housing payment advanced. If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

(g) Any eligible person who obtained legal ownership of a replacement dwelling before being

displaced and occupies the replacement dwelling within one year from the date the person is required to move in is eligible for the replacement housing payment if the dwelling meets the requirements of section 15-179-16 or is improved to meet those requirements within the one year period.

(h) If two or more eligible displaced persons occupy the same dwelling unit, they should be treated as a single unit in computing the amount of the replacement housing payment due. In order to receive payment, such displaced persons shall not be required to relocate together but all relocatees must move to decent, safe and sanitary housing. The payment shall be made to them jointly with the apportionment to be made by the relocatees.

(i) Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm, or nonprofit organization, such individuals or families are separate displaced persons for purposes of determining entitlement to relocation payments.

(j) The person who establishes the estimate of value of replacement housing payment shall not negotiate for the parcel nor deliver the payment to the displaced person. This also is applicable to situations where such payments and services are being administered by another federal, state, or local agency. [Eff **OCT 25 1999**] (Auth: HRS §§111-4, 111-9) (Imp: HRS §§111-4, 111-9)

\$15-179-9 Replacement housing payment to a one-year owner-occupant who purchases. (a) A displaced owner-occupant of a one, two, or three family dwelling is eligible for a replacement housing payment in accordance with section 111-4(a), HRS.

(b) The average price of a comparable dwelling shall be established by one of the following methods:

- (1) The state agency may determine the average price of a comparable dwelling by using a qualified state agency employee who is familiar with real property values and real estate transactions to select at least three dwellings comparable in value to the replacement housing unit purchased; or
- (2) The state agency or the corporation may make a locality-wide study which will develop the

probable average selling price of various classes of dwelling units available on the market. In large urban areas, this survey may be confined to one area of the city or may cover several different areas if they are comparable and equally accessible to public services and places of employment. In order to assure the greatest comparability of dwellings in any locality-wide study to the dwelling being acquired, the study shall be divided into classifications as to the type of construction, number of rooms and price ranges. Adequate classifications shall be established so that the average prices derived therefrom will provide a meaningful and proper basis for establishing a schedule of fixed payments to owner-occupants.

(c) Where it is not possible to establish the average price of a comparable dwelling by the methods set forth in subsection (b), one of the following methods in the order listed shall be acceptable upon prior approval of the executive director.

- (1) If other housing is available in the area (that is comparable except that it is not decent, safe, and sanitary), the supplementary payment may be determined by estimating the cost to correct the decent, safe and sanitary deficiencies, adding this amount to the selling price of the replacement housing which is not decent, safe, and sanitary, and comparing this amount with the amount paid the relocatee for a dwelling on an area of land typical in size for a homesite in the general area;
- (2) When there is no other housing available in the area and the owner elects to retain and move the owner's dwelling which is not decent, safe, and sanitary, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of the dwelling, corrected to decent, safe, and sanitary standards on a comparable site;
- (3) Where there is no housing available for

comparison and the owner elects to retain and move a decent, safe, and sanitary dwelling, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of the dwelling relocated on a comparable homesite; and

- (4) In the event the cost of replacement housing determined by paragraphs (1), (2) and (3) above exceeds the acquisition cost, plus the \$15,000 replacement housing limit, the replacement housing payment may be determined by estimating the amount paid for the dwelling at the present location on an area of land typical in size for a homesite in the general area and deducting this amount from the estimated selling price of a new comparable, decent, safe and sanitary dwelling on a comparable homesite.

(d) If an owner occupant is otherwise qualified for a payment under this section but has previously received a payment under section 15-179-10, the amount of the payment received shall be deducted from the amount to which the owner-occupant is entitled under this section. In no event may the combined payments exceed \$15,000. [Eff: **OCT 25 1999**] (Auth: HRS §§111-4, 111-8) (Imp: HRS §§111-4, 111-8)

\$15-179-10 Replacement housing payment to owner-occupants who rent. (a) A displaced owner-occupant of a one, two, or three family dwelling, acquired by the State, who elects to rent is eligible for a replacement housing payment in accordance with section 111-4(b), HRS; provided that the owner-occupant has rented a comparable dwelling not later than one year subsequent to the date on which the owner-occupant was required to move.

(b) The payment shall be the lesser of the following amounts but not to exceed \$4,000:

- (1) A sum equal to the difference, if any, between the cost of renting a comparable dwelling for the next two years and twelve per cent of the acquisition price of the

- property taken; or
- (2) The amount which the owner-occupant would have received had the owner-occupant elected to receive a replacement housing payment under section 15-179-9. [Eff **OCT 25 1999**]
(Auth: HRS \$111-9) (Imp: HRS \$111-4)

\$15-179-11 Replacement housing payment to owner-occupants for less than one year but not less than ninety days who purchase. (a) A displaced owner-occupant of a one, two, or three family dwelling, acquired by the State, who does not qualify for a replacement housing payment under section 15-179-9 is eligible for a replacement housing payment in accordance with section 111-4(b), HRS; provided that the owner-occupant purchases a comparable dwelling not later than one year subsequent to the date on which the owner-occupant was required to move.

(b) The payment, not to exceed \$4,000, is the amount, if any, which is necessary to make a downpayment on a replacement dwelling.

- (1) The determination of the amount necessary for a downpayment shall be based on the amount a relocatee would have had to pay if the purchase of a comparable dwelling was financed with a conventional loan.
- (2) This payment shall not exceed the amount which the owner-occupant would have received had the owner-occupant been eligible for a payment under section 15-179-9.
- (3) If the owner-occupant is otherwise qualified for payment under this section but has previously received a payment under section 15-179-9, the amount of such payment previously received shall be deducted from the amount the owner-occupant is entitled to under this section. In no event shall the combined total payment exceed \$4,000.
[Eff **OCT 25 1999**] (Auth: HRS \$111-9)
(Imp: HRS \$111-4)

\$15-179-12 Replacement housing payment to owner-occupants for less than one year but not less than ninety days who rent. (a) A displaced owner-occupant of a one, two, or three family dwelling,

acquired by the State, who does not qualify for payment under section 15-179-9 and who has elected to rent shall be eligible for a replacement housing payment in accordance with section 111-4(b), HRS; provided that the owner-occupant has rented and occupied a decent, safe, and sanitary replacement dwelling not later than one year subsequent to the date on which the owner-occupant was required to move from the dwelling unit taken.

(b) The payment, not to exceed \$4,000, shall be the lesser of:

- (1) A sum equal to the difference, if any, between that cost of renting a comparable dwelling for the next two years and twelve per cent of the acquisition price of the property taken; and
- (2) The amount which the owner-occupant would have received had the owner-occupant been eligible for a payment under section 15-179-9. [Eff **OCT 25 1999**] (Auth: HRS §§111-4, 111-8) (Imp: HRS §§111-4, 111-8)

\$15-179-13 Replacement housing payment to tenant-occupants for not less than ninety days who rent. (a) A displaced tenant of property acquired by the State who elects to rent, is eligible for a replacement housing payment in accordance with section 111-4(b), HRS; provided that the tenant has rented and occupied a comparable dwelling not later than one year subsequent to the date on which he was required to move.

(b) The payment shall be determined by subtracting from the actual amount necessary to rent a comparable dwelling for the next two years the following amount:

- (1) Twenty-four times the average monthly rental paid by the relocated individual or family during the last six months if such rental is reasonable, or the average rent, if reasonable, during the time of occupancy if such occupancy is less than six months, prior to being required to move; or
 - (2) If such rent is not reasonable, twenty-four times the economic rent established by the state agency for the dwelling unit.
- [Eff **OCT 25 1999**] (Auth: HRS §§111-4,

111-9) (Imp: HRS §§111-4, 111-9)

§15-179-14 Replacement housing payment to tenant-occupants for not less than ninety days who purchase. (a) A displaced tenant of property required by the State is eligible for a replacement housing payment in accordance with section 111-4(b), HRS; provided that tenant has purchased and occupied a comparable dwelling not later than one year subsequent to the date on which the tenant was required to move from the dwelling unit required.

(b) The payment shall be the amount necessary to make a downpayment on a comparable dwelling. Determination of the amount necessary for such downpayment shall be based on the amount that the relocatee would have had to pay if the purchase of a comparable dwelling was financed by a conventional loan.

(c) The full amount of the replacement housing payment must be applied to the downpayment, including closing costs.

(d) If a tenant who otherwise qualifies for a payment under this section has previously received a payment under section 15-179-13, the amount of such prior payment shall be deducted from the amount the tenant is otherwise eligible for under this section. [Eff **OCT 25 1999**] (Auth: HRS §§111-4, 111-9) (Imp: HRS §§111-4, 111-9)

§15-179-15 Replacement housing payment to tenant of sleeping room who rents. (a) A displaced tenant of a sleeping room, acquired by the State, who rents replacement housing is eligible for replacement housing payment with section 111-4(b), HRS; provided that the tenant has rented and occupied a decent, safe and sanitary replacement dwelling not later than one year subsequent to the date on which the tenant was required to move from the dwelling unit taken.

(b) The payment shall be determined by subtracting from the amount necessary to rent a comparable room for the next two years the following amount:

- (1) Twenty-four times the average monthly rental paid by the relocated individual or family during the last six months if such rental is

reasonable, or the average rent, if reasonable, during the time of occupancy if such occupancy is less than six months, prior to being required to move, or

- (2) If such rent is not reasonable, twenty-four times the economic rent established by the State for the dwelling unit.

[Eff **OCT 25 1999**] (Auth: HRS §111-9)
(Imp: HRS §111-4)

\$15-179-16 Decent, safe, and sanitary housing.

(a) Decent, safe and sanitary housing shall be a dwelling which:

- (1) Conforms with all applicable housing and occupancy codes;
- (2) Has a kitchen area which contains a sink in good working condition and connected to hot and cold water, a sewage disposal system, a stove, and a refrigerator. When these facilities are not so required by local codes, ordinances, or custom, the kitchen area shall have utility service connections and adequate space for the installation of the facilities;
- (3) Has a bathroom, well-lighted and ventilated and affording privacy to a person within it, containing a lavatory, a basin, and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush water closet, all in good working order and properly connected to a sewage disposal system;
- (4) Has provision for artificial lighting for each room;
- (5) Is structurally sound, in good repair, and adequately maintained;
- (6) Each building used for dwelling purposes shall have two safe unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multi-dwelling building must have access either directly or through a common corridor to two means of egress to open space at ground level. In buildings of three stories or more, the common corridor on each story must have at least two means of egress; and

- (7) Has one hundred fifty square feet of habitable floor space for the first occupant in a standard living unit and at least one hundred square feet of habitable floor space for each additional occupant. The floor space is to be subdivided into sufficient rooms to be adequate for the family. All rooms must be adequately ventilated. Habitable floor space is defined as that space used for sleeping, living, cooking, or dining purposes, and excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, and unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

(b) Sleeping rooms shall:

- (1) Including the minimum requirements contained in subsection (a)(1), (a)(4), (a)(5) and (a)(6);
- (2) Have at least one hundred square feet of habitable floor space for the first occupant and fifty square feet of habitable floor space for each additional occupant; and
- (3) Lavatory and toilet facilities that provide privacy including a door that can be locked if such facilities are separate from the room.

(c) The executive director in the case of non-federally assisted projects, and an appropriate federal official, in the case of federally assisted projects, may approve exceptions to the standards but requests should be limited to items and circumstances that are beyond the reasonable control of the relocatee to adhere to the standards. Approved exceptions shall not affect the computation of the replacement housing payment. [Eff **OCT 25 1999**] (Auth: HRS §111-9)
(Imp: HRS §111-4)

§15-179-17 Right to appeal. (a) An applicant for a payment under these rules shall be notified promptly in writing concerning the applicant's eligibility for the payment claimed, the amount, if any, the applicant is entitled to receive, and the time and manner in which the payment will be made.

- (1) Any person aggrieved by a determination as to

eligibility for payment authorized by these rules, or the amount of the payment, may request in writing that the application be reviewed by the executive director. The request shall be filed with the displacing state agency and must contain all necessary data and information in support of the applicant's contention.

- (2) The director of the displacing state agency shall first review such a request and then forward it with a recommendation to the executive director for review and decision.
- (3) Any aggrieved applicant who is not satisfied with the decision on review, may appeal the executive director's determination to the circuit court of the circuit in which the aggrieved applicant resides.

(b) Persons aggrieved by a determination that they are responsible for a code violation may request in writing that the determination be reviewed by the executive director. Such a request must be filed with the displacing state agency within sixty days after written demand is made by the state agency and must contain the grounds for the appeal, the specific issues involved, the contentions of the aggrieved, and a description of the evidence that the aggrieved intends to introduce to support the person's contentions.

- (1) The director of the displacing state agency shall first review such a request and then forward it with a recommendation to the executive director for review and decision.
- (2) A person responsible for a code violation who is not satisfied with the decision on review may appeal the executive director's determination to the circuit court of the circuit in which the aggrieved applicant resides. [Eff **OCT 25 1999**] (Auth: HRS \$111-9) (Imp: HRS \$111-12)

\$15-179-18 Documentation. (a) The state agency shall maintain relocation records showing:

- (1) State and federal project and parcel identification;
- (2) Names and addresses of displaced persons and their complete original and new addresses and telephone numbers (if available after

- reasonable effort to determine where relocatee moved without assistance);
- (3) Personal contacts made with each displaced person; including, for each displaced person:
 - (A) Date of notification of availability of relocation payments and services;
 - (B) Name of the official offering or providing relocation assistance;
 - (C) Whether the offer of assistance was declined or accepted and the name of the individual accepting or declining the offer;
 - (D) Dates and substance of subsequent follow-up contacts;
 - (E) Date on which the displaced person was required to move from the property acquired;
 - (F) Date on which actual relocation occurred and whether relocation was accomplished with the assistance of the state agency, referrals to other agencies, or without assistance. If the latter, an approximate date for actual relocation is acceptable; and
 - (G) Type of tenure before and after relocation;
 - (4) For displacements from dwellings:
 - (A) Number in family;
 - (B) Type of property (single family detached, multi-family, etc.);
 - (C) Value, or monthly rent; and
 - (D) Number of rooms occupied; and
 - (5) For displaced businesses:
 - (A) Type of business;
 - (B) Whether continued or terminated; and
 - (C) If relocated, distance moved (estimate acceptable).

(b) The state agency shall maintain records containing the following information regarding moving expense payments:

- (1) The date the removal of personal property was accomplished;
- (2) The location from which and to which the personal property was moved;
- (3) If the personal property was stored temporarily, the location where the property was stored, the duration of such storage, and

justification for the storage and the storage charges;

- (4) Itemized statement of the costs incurred supported by receipted bills or other evidence of expense;
- (5) Amount of reimbursement claimed, amount allowed, and an explanation of any difference;
- (6) Data supporting any determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having at least one other establishment not being acquired;
- (7) When the payment to a business or farm operation is based on its average annual net earnings or \$5,000, whichever is less, data showing how the payment was computed; and
- (8) When fixed moving expense payments are made, the data called for in paragraphs (3) and (4) need not be maintained. Instead, records showing the basis on which payment was made shall be maintained.

(c) The state agency shall maintain records containing the following information regarding replacement housing payments:

- (1) The date of the state agency's receipt of each application for such payments;
- (2) The date on which each payment was made or the application rejected;
- (3) Supporting data explaining how the amount of the supplemental payment to which the applicant is entitled was calculated. This support should also clearly establish that as of the date of payment, replacement housing meeting the criteria established in section 15-179-16 was available;
- (4) A signed and dated statement setting forth:
 - (A) The determination of the amount of the supplemental payment; and
 - (B) That no official of the state agency has a direct or indirect present or contemplated personal interest in this transaction, or will derive any benefit from the supplemental payment, provided that where an individual employed by a state agency is displaced by a project,

- the executive director may authorize payments under these rules; and
- (5) A statement by the state agency that in its opinion the displaced person has been relocated in decent, safe, and sanitary housing. [Eff **OCT 25 1999**] (Auth: HRS \$111-9) (Imp: HRS \$111-3, 111-4)

\$15-179-19 Assurance of availability of housing. Any state agency which misplaces any person shall, at least one hundred twenty days prior to any displacement, provide the following to the corporation:

- (1) A feasible method for the relocation of families and individuals displaced from the property acquired; and
- (2) Assurance that there are or are being provided in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings equal in number to the number of displaced families and individuals and available to such displaced families and individuals and reasonably accessible to their places of employment. [Eff **OCT 25 1999**] (Auth: HRS \$111-9) (Imp: HRS \$111-6)

\$15-179-20 Relocation assistance programs. (a) Planning for relocation programs shall be accomplished in stages:

- (1) Until such time as the final location is approved, the tenant is not to be disturbed in any way. Prior to the completion of this stage, the state agency shall make preliminary investigation which will furnish the following information for each of the various alternative locations given final consideration:
- (A) Identify the approximate number of individuals and families to include the number of adults and children as well as relocation housing requirements in terms of number of bedrooms needed to

- accommodate the displacees;
 - (B) Identify the number and type of businesses, farms, and non-profit organizations as well as the type and quantity of space or area needed to meet the requirements for the displaced businesses, farms and non-profit organizations;
 - (C) The probable availability of comparable replacement housing, commercial or industrial space and farm areas in the areas of preference and within the financial means of those being displaced; and
 - (D) Outline the basis upon which the preliminary findings of the state agency are made and include same in the required relocation plan.
- (2) The state agency, prior to proceeding with acquisition negotiations or construction, shall furnish the following information for the corporation's review and approval:
 - (A) The methods and procedures by which the needs of every individual to be displaced will be evaluated and correlated with available decent, safe, and sanitary housing at reasonable rents or prices and readily accessible to the individual's place of employment;
 - (B) The methods and procedures by which the state agency will assure an inventory of currently available comparable housing which is decent, safe, and sanitary, including type of building, state of repair, number of rooms, needs of the person or family being displaced, type of neighborhood, proximity of public transportation and commercial shopping areas, and distance to any pertinent social institutions, such as church and community facilities; and
 - (C) An analysis relating to the characteristics of the inventories so as to develop a relocation plan which will:
 - (i) Outline the various relocation problems disclosed by the above survey;

- (ii) Provide an analysis of federal, state, and community programs affecting the availability of housing currently in operation in the project area;
- (iii) Provide detailed information on concurrent displacement and relocation by other governmental agencies or private concerns;
- (iv) Provide an analysis of the problems involved and the method of operation to resolve and relocate the relocatees;
- (v) Estimate the amount of lead time required and demonstrate its adequacy to carry out a timely, orderly, and humane relocation program;
- (vi) Assure no person lawfully occupying real property shall be required to move without at least ninety days written notice; and
- (vii) Furnish the names of the agencies which will provide the relocation assistance including an analysis of their present workload and ability to perform and the estimated number and job titles of relocation personnel servicing the project.

(b) The displacing state agency shall, in developing relocation assistance programs, consult with the persons to be displaced in order to ensure that such programs are realistic and effective.

(c) Each relocation assistance program shall be submitted in writing to the corporation by the displacing state agency at least one hundred twenty days prior to any displacement. Such programs shall be reviewed and approved by the executive director.

(d) Where a state agency elects to have the relocation payments and services required by these rules administered by another federal, state, or local agency, it shall enter into a written contract or agreement to that effect with the agency it selects. Such contract or agreement shall be subject to the approval of the executive director and shall obligate the agency to perform the services and make the payments in accordance with these rules. The contract

shall also provide that the records required by section 15-179-18 will be retained by the agency administering the relocation program for a period of not less than three years after payment of the final voucher with respect to the particular project, or that these records will be turned over to the state agency. In the event these records are turned over to the state agency, that agency will retain them for a like period. These records shall be made available for inspection by representatives of the corporation or of the federal government at any reasonable hour.

(e) The organization and procedures of any state agency which administers a relocation program shall provide as a minimum that:

- (1) Each project shall have assigned to it one or more individuals whose primary responsibility is to provide relocation assistance;
- (2) A local subsidiary office will be established which is reasonably convenient to public transportation or within walking distance of each project when the executive director, after consultation with the state agency, that the volume of work or the needs of the displaced persons are such as to justify the establishment of such an office. These offices shall be open during hours convenient to the persons to be displaced, including at least one and preferably more evenings per week if necessary;
- (3) Regardless of whether a local office is established, personal contact will be made with each person to be displaced to explain the relocation payments and assistance which are available and to assist in completing any applications required. If such contact cannot be made, the state agency shall furnish documentation to show that reasonable efforts have been made to achieve this contact;
- (4) Relocation officials shall maintain personal contact and exchange information with other agencies rendering services useful to displaced persons. Such agencies include social welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Federal Housing Administration, Veterans Administration, and

- Small Business Administration. Personal contact shall also be maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors. Subscriptions may be maintained for multiple listing services, apartment directory services, and neighborhood and metropolitan newspapers; and
- (5) The local relocation office shall maintain and provide:
- (A) Lists of replacement dwellings drawn from various sources, suitable in price, size, and condition for displaced persons to the extent they are available;
 - (B) Current data for such costs as security deposits for utilities, damages, leases, closing costs, typical downpayments, and interest rates and terms;
 - (C) Maps showing the location of schools, parks, playgrounds, shopping, and public transportation routes in the area;
 - (D) Schedules and costs of public transportation; and
 - (F) Other recommended information to be provided by relocation offices including copies of a brochure explaining its relocation program, local ordinances pertaining to housing, building codes, and open housing; Federal Housing Administration and Veteran's Administration booklets of information on inspecting and evaluating replacement housing; and consumer education literature on housing, shelter costs and family budgeting. [Eff **OCT 25 1999**]
(Auth: HRS \$111-6) (Imp: HRS \$111-6)

August 27, 1999

OPTIONAL FIXED PAYMENTS MOVING COST SCHEDULE
APPLICABLE TO STATE FUNDED DISPLACEMENTS

The following optional fixed payments moving cost schedule applies to unfurnished and furnished dwelling units as indicated:

- A. Allowances for Moving Expenses for Unfurnished Dwelling Units:
Occupant owns furnishings - also applies to partly furnished units.
- 1)

<u>1Rm*</u>	<u>2Rms*</u>	<u>3Rms*</u>	<u>4Rms*</u>	<u>5Rms*</u>	<u>6Rms*</u>	<u>7Rms*</u>	<u>8Rms*</u>
\$65	\$100	\$135	\$175	\$215	\$255	\$295	\$300
 - 2) In addition to the allowances for the moving expenses shown in A.(1) above, for unfurnished dwelling units, a dislocation allowance of \$200 is also authorized for each individual or family displaced.
 - 3) The maximum optional fixed payments amount is \$500 per individual or family displaced. This amount is composed of a maximum of \$300 for moving expenses and \$200 for a dislocation allowance.
- B. Allowances for Moving Expenses for Furnished Dwelling Units: Occupant does not own furnishings. The furnishings are owned by the landlord.
- 1)

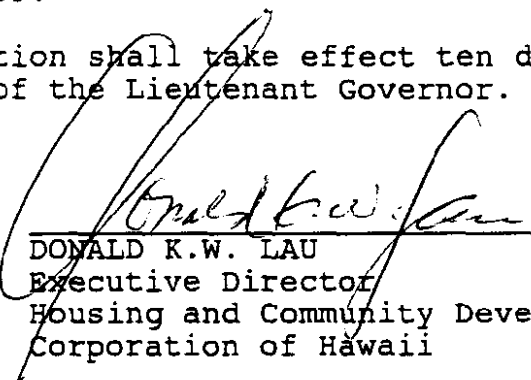
<u>1Rm*</u>	<u>Each Additional Room*</u>
\$50	\$25 for each additional room, up to a combined maximum of \$300
 - 2) In addition to the allowances for the moving expenses shown in B.(1) above, a dislocation allowance of \$200 is also authorized for each individual or family displaced.
 - 3) The maximum optional fixed payments amount is \$500 per individual or family displaced. This amount is composed of a maximum of \$300 for moving expenses and \$200 for a dislocation allowance.

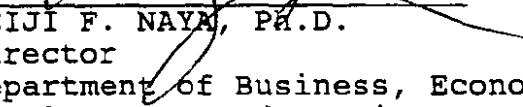
*Eligible rooms do not include bathrooms, hallways and closets.

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

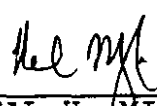
The repeal of chapter 6-391 and the adoption of chapter 15-179, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after public notice was given in the Midweek newspaper on June 7, 1999.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.


DONALD K.W. LAU
Executive Director
Housing and Community Development
Corporation of Hawaii



SEIJI F. NAYA, Ph.D.
Director
Department of Business, Economic
Development, and Tourism

APPROVED AS TO FORM:


NEAL H. MIYAHIRA
Director of Finance


Deputy Attorney General

APPROVED:


BENJAMIN J. CAYETANO
Governor
State of Hawaii

Dated:

10-14-99
OCT 15 1999

Filed

LIEUTENANT GOVERNOR
OFFICE

'99 OCT 15 P2:08